

GAU 1642

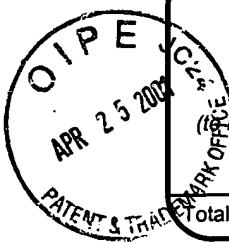
PTO/SB/21 (08-00)

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Approved for use through 10/31/2002. OMB 0651-0031

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	<b>Application Number</b>	09/493,480	
	<b>Filing Date</b>	January 28, 2000	
	<b>First Named Inventor</b>	Cheever, Martin, et al.	
	<b>Group Art Unit</b>	1642	
	<b>Examiner Name</b>	J. Hunt	
<b>Total Number of Pages in This Submission</b>	1	<b>Attorney Docket Number</b>	14058-009810

## ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input checked="" type="checkbox"/> Amendment / Response  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application)  <input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <b>Return Receipt Postcard</b>
<b>Remarks</b>		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

TECH CENTER 1600/2900

APR 27 2001

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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

<b>Firm and Individual name</b>	Townsend and Townsend and Crew LLP Annette S. Parent	<b>Reg. No.</b> 42,058
<b>Signature</b>		
<b>Date</b>	4/18/01	

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date:			
April 18, 2001			
<b>Typed or printed name</b>	Karen Iovino		
<b>Signature</b>		<b>Date</b>	April 18, 2001

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SF 1213275 v1

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# FEE TRANSMITTAL for FY 2001

APR 25 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$) 0

## Complete if Known

Application Number 09/493,480  
Filing Date January 28, 2000  
First Named Inventor Cheever, Martin, et al.  
Examiner Name J. Hunt  
Group Art Unit 1642  
Attorney Docket No. 14058-009810

## METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit  
Account  
Number

20-1430

Deposit  
Account  
Name

Townsend and Townsend and Crew LLP

- ☒ Charge Any Additional Fee Required  
Under 37 CFR 1.16 and 1.17  
☒ Applicant claims small entity status.  
See 37 CFR 1.27

2. ☐ Payment Enclosed:

☐ Check ☐ Credit card ☐ Money  
Order ☐ Other

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	
106	320	206	160	Design filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional filing fee	

SUBTOTAL (1)

(\$0)

### 2. EXTRA CLAIM FEES

	Total Claims	Extra Claims	Fee from below	Fee Paid
Total Claims	24	-92**	0	
Independent Claims	2	-4**	0	
Multiple Dependent				

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$0)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,240	241	620	Petition to revive - unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))	
179	710	279	355	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify)

The Commissioner is authorized to charge any additional fees to the above noted Deposit Account.

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$0)

## SUBMITTED BY

## Complete (if applicable)

Name (Print/Type) Annette S. Parent

Registration No. (Attorney/Agent) 42,058

Telephone

415-576-0200

Signature

Annette S. Parent

Date

4/18/01

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Amat  
PATENT  
Attorney Docket No.: 014058-009810US  
Client Ref. No.: CX-98-0028

10/B  
Linda  
5/2/01  
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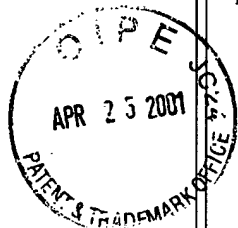
APR 27 2001

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TOWNSEND and TOWNSEND and CREW LLP

By: Karen Iovino

Karen Iovino



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Cheever *et al.*

Application No.: 09/493,480

Filed: January 28, 2000

For: HER-2/NEU FUSION PROTEINS

Examiner: J. Hunt

Art Unit: 1642

**PRELIMINARY AMENDMENT AND  
RESPONSE TO RESTRICTION  
REQUIREMENT**

Art Unit 1642  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**IN THE CLAIMS**

Please cancel claims 1-92 without prejudice to subsequent revival.

Please add new claims 93-116 as follows.

Sub  
C9  
B  
✓ 93. An isolated nucleic acid encoding a protein comprising a HER-2/neu extracellular domain fused to a HER-2/neu phosphorylation domain, wherein the protein has a sequence at least 80% identical to the sequence of SEQ ID NO:6, or wherein the protein comprises a sequence at least 80% identical to the sequence of SEQ ID NO:3 fused to a sequence at least 80% identical to the sequence of SEQ ID NO:4, and wherein the protein is capable of producing an immune response in a warm-blooded animal.